

REMARKS/ARGUMENTS

Claims 1-20 were pending in the application and have been rejected.

Claims 1-5, 7, 9-11, and 15 have been amended. Claim 16 has been cancelled without prejudice. It is believed that no new matter has been entered.

Rejections under 35 USC § 103

Claims 1-8, 11, 12 and 14-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over “Enterprise Information Portals — Move Over Yahoo!; the Enterprise Information Portal is on its Way,” Christopher C. Shilakes, Julie Tyman, Merrill Lynch Industry Report (hereinafter Merrill) in view of Cawse, U.S. Patent 6,725,183 (hereinafter Cawse). Applicants respectfully traverse this rejection.

With regard to rejections under 35 U.S.C. § 103, the Examiner must provide evidence which as a whole shows that the legal determination sought to be proved (*i.e.*, the reference teachings establish a *prima facie* case of obviousness) is more probable than not.” MPEP §2142. Accordingly, “the key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious.” MPEP §2142; see *KSR International Co. v. Teleflex, Inc.*, 550 U.S. ___, 82 USPQ 2d 1385 (1395-97 (2007).

I. Claims 1-8

As amended, claim 1 recites:

1. A method of presenting an analysis of enterprise wide business data, the enterprise wide business data collectively stored in a plurality of data repositories, comprising the steps of:

a) collecting data from the plurality of data repositories into warehouse data stored in a uniform format in a data warehouse;

b) in response to a first user request to a web site operable to access said enterprise wide business data and to provide statistical analysis, including six sigma analysis of said enterprise wide business data, transferring an electronic document to said user, wherein said

electronic document allows said user to select a performance measure to be analyzed for a data set in said warehouse data;

- c) in response to a second request from said user to said website, performing a statistical analysis of said performance measure for said data set; and
- d) transferring an electronic copy of said statistical analysis to said user.

Merrill and Cawse do Not Individually, or in Combination, Teach All Claim Elements

Applicants respectfully assert that the cited references do not teach all elements of claim 1. For example, amended claim 1 recites

“in response to a first user request to a web site operable to access said enterprise wide business data and to provide statistical analysis, including six sigma analysis of said enterprise wide business data, transferring an electronic document to said user, wherein said electronic document allows said user to select a performance measure to be analyzed for a data set in said warehouse data.”

With respect to “warehouse data” claim 1 additionally recites that “warehouse data [is] stored in a uniform format in a data warehouse.”

The Office Action at page 5 cites to Merrill, page 10, paragraph 5 for “transferring an electronic application to said user, wherein said electronic application allows said user to select a performance measure to be analyzed for a data set in said enterprise wide business data.” This section of Merrill, however, is directed to a user’s ability to “question” data in general, and more specifically “drilling down into data (from year to quarter to month), drilling across (from one report to another, separate report), rolling up (day to month to quarter), linking to external web sites, downloading information sources (Intranet, Extranet, Internet), and sharing that information with other users (e-mail, bulletin boards).” Notably, the cited paragraph of Merrill is not directed to user selection of “performance measures” as recited in claim 1. Indeed, the specification at page 11, lines 1-8, defines performance measure in the following way:

Performance Measure: An indicator used to determine enterprise performance and success. A company will identify relevant performance measures based on the dynamics of the industry and the company's strategic and tactical goals. This term is often used in conjunction with Balanced Scorecard efforts. This may also be known as a Key Performance Indicator (KPI). The performance measures can be viewed by their standard unit of measure or by a sigma value.

Page 10, paragraph 5 of Merrill does not concern user selection of any measures that satisfy the above definition provided in Applicants' specification, but only concerns data location and manipulation in general. As a result, Merrill does not teach an electronic document that "allows said user to select a performance measure to be analyzed for a data set in said warehouse data" as recited in claim 1.

Moreover, not only does Merrill fail to teach the above claim element with respect to a "performance measure," Page 10, paragraph 5 also fails to teach that the data is analyzed "for a data set in said warehouse data" as recited in claim 1. Again, the section of Merrill identified by the Office Action concerns the general concept of questioning and sharing information, but does not concern analysis of warehouse data, where the warehouse data is as recited in claim 1. Cawse does not make up for this deficiency. Applicants submit that even if Merrill and Cawse were combined as suggested by the Office Action (even though there appears to be no motivation for the combination), the resultant combination would fail to teach or suggest this feature of claim 1. Therefore, for at least these reasons, Applicants respectfully submit that the rejection of claim 1 should be withdrawn.

Further, the Office Action at page 5 also cites to Merrill, page 12, paragraphs 2-5 and page 10, paragraph 5 for the feature recited in claim 1 of "in response to a request from said user, performing an analysis of said [user-selected] performance measure." The section on page 12 of Merrill is dedicated to Business Intelligence Applications, Data Warehouses and Marts, and Data Management Systems. Merrill does not describe how these systems operate, but only describes in general terms that these systems analyze and manage data. While these systems may analyze data, Merrill does not teach that they do so according to a performance measure. As with the above discussion of page 10 of Merrill, page 12 is silent on analysis of data according to performance measures, as defined in the specification and noted above.

Furthermore, due to the vague and general nature of the cited portion of Merrill, Merrill also fails to teach that the performance measure was selected by a user using an electronic document (or other means) that was transferred to the user, also recited in claim 1.

The cited portion of page 10 of Merrill fails to make up for the deficiency of Merrill to teach the above limitation on page 12. As discussed above, Merrill fails to teach analysis of data “for a data set in said warehouse data” and fails to teach analysis of the data according to a “performance measure” as recited in claim 1. Cawse does not make up for the deficiencies of the cited portions of page 10 and 12 of Merrill. Therefore, for these additional reasons, Applicants respectfully submit that the rejection of claim 1 should be withdrawn.

With respect to specific teachings of Cawse, the Office Action at page 6 acknowledges that Merrill does not teach that the analysis is statistical in nature, but notes that “Cawse teaches performing a statistical analysis method using a web-based computer system.” For this teaching, the Office Action points to column 9, lines 9-12 of Cawse, which vaguely recites that “the computer apparatus may include an interconnection with the internet or an intranet allowing scientists in multiple locations to access six sigma flowdown programs and provide data on the various variabilities.” In other words, Cawse teaches statistical analysis performed using a web-based computer system. Applicants respectfully submit that a combination of this teaching with the asserted teachings of Merrill would not result in the claimed subject matter.

For example, even assuming that Cawse teaches “performing a statistical analysis using a web-based computer system,” claim 1 recites more than simply the asserted teachings of Merrill (as discussed above) combined with statistical analysis using a web-based computer system. In particular, as discussed above, amended claim 1 specifically recites “statistical analysis, including six sigma analysis of said enterprise wide business data,” where the performance measure is “to be analyzed for a data set in said warehouse data” and where the warehouse data is collected “from [a] plurality of data repositories” in which enterprise wide business data is collectively stored. Simply performing statistical analysis using a web-based computer system does not make up for the above-discussed deficiencies of Merrill since the Cawse does not include user selection of a data set from enterprise wide business data, where the

enterprise wise business data is collectively stored in a plurality of data repositories, which is recited by claim 1. Therefore, combining the teachings of Merrill with Cawse to provide six sigma analysis of a single business process, such as a research project, does not result in the subject matter of claim 1, which recites statistical analysis of a performance measure of a data set of enterprise wide business data, where the data set is selected by the user from the enterprise wide business data, which itself is from a plurality of data repositories.

Merrill Cannot be Relied Upon for the Teachings for Which it is Cited

In addition to the failure of Merrill and Cawse to teach all limitations of claim 1, Applicants respectfully submit that the Office Action improperly cites to Merrill for teachings that are not enabled. A proper rejection under Section 103 requires evidence that “the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious *at the time the invention was made* to a person having ordinary skill in the art to which said subject matter pertains.” 35 U.S.C. § 103(a); M.P.E.P. § 2141. Accordingly, “in order to render a claimed apparatus or method obvious, the prior art must enable one skilled in the art to make and use the apparatus or method.” *Beckman Instruments, Inc. v. LKB Produkter AB*, 13 U.S.P.Q.2d 1301, 1304 (Fed. Cir. 1989); see also M.P.E.P. § 2145 (“A conclusion of obviousness requires that the reference(s) relied upon be enabling in that it put the public in possession of the claimed invention.”). When considering teaching of references for the purposes of Section 103, “an invention is not ‘possessed’ absent some known or obvious way to make it.” *In re Payne, Durden, and Weiden*, 203, U.S.P.Q. 245, 255 (C.C.P.A. 1979). Stated another way, “[i]f neither any item of prior art, nor the background knowledge of one with ordinary skill in the art, would enable one to arrive at an invention, that invention would not be obvious.” *Minnesota Mining and Manufacturing Company v. Blume et al.*, 215 U.S.P.Q. 585, 591 n. 10 (6th Cir. 1982).

Applicants respectfully submit that the cited portions of Merrill, even when combined with teachings from Cawse, do not enable one with ordinary skill in the art to practice the claimed subject matter as they do not present a known or obvious way to practice the claimed

subject matter. Generally, Merrill is not directed to the knowledge of one with ordinary skill in the art at the time of its publication, but is directed to Enterprise Information Portals (EIPs), which it describes as “the portal of the future.” Merrill, page 4. Merrill generally concerns abilities that EIPs will or should have as more money is invested in their development. *See, e.g.* Merrill, page 3, column 1, paragraphs 1 and 2. Consequently, as discussed in more detail below, the teachings of Merrill do not concern what would have been obvious to one of ordinary skill in the art at the time Merrill was written, but what Merrill’s authors envision might be developed in the future.

In terms of specific claim elements, the Office Action at page 4 cites to Merrill, page 3, column 2, paragraph 4 and page 4, paragraphs 1-3 for “in response to a user request over a network operable to access said enterprise wide business data and to provide analysis of said enterprise wide business data.” Page 3, column 2, paragraph 4, however, describes that “companies *will* need to use both “publish” (pull) and “subscribe” (push) mediums to ensure the right information is available to the right people at the right time.” Therefore, this paragraph describes not what those with ordinary skill in the art knew or were capable of at the time of Merrill’s publication, but what technologies the author believes should be developed. Similarly, page 4, paragraphs 1-3 suffers the same faults. For instance, Merrill predicts that EIPs “*will* enable companies to unlock internally and externally stored information and provide users a single gateway to personalized information needed to make informed business decisions.” (Merrill, paragraph 3). Therefore, Merrill is not describing what is the current state of the art of EIPs, and therefore what is within the knowledge of one with ordinary skill in the art at the time of Merrill’s publication, but predicting how EIPs will develop. Consequently, contrary to a requirement for sustaining a Section 103 rejection, the prior art has not been shown to present a known or obvious way of practicing the claimed method.

As another example, the Office Action at page 5 cites to Merrill, page 10, paragraph 5 for “transferring an electronic application to said user, wherein said electronic application allows said user to select a performance measure to be analyzed for a data set in said enterprise wide business data.” This paragraph describes that “to remain competitive, EIP Applications *will* have to allow users to ‘question’ and share information on their desktops.”

Again, this describes not the current knowledge of those in the art, but future developments that developers will have to develop in order to remain competitive. Merrill does not provide any teachings of how this is accomplished or any other evidence that development of such functionality would be within the abilities of one with ordinary skill in the art. Therefore, as above, this portion of Merrill likewise does not provide an enabling disclosure of the teaching for which it is cited.

Page 10, paragraph 5 of Merrill is additionally cited for the limitation of "in response to a request from said user, performing an analysis of said performance measure." Again, Merrill does not enable a known or obvious way of practicing this element for the same reason as described in the preceding paragraph.

In other words, because the cited teachings of Merrill are primarily concerned with its authors' future predictions as opposed to the current state of the art, Merrill does not enable the teachings for which the reference is cited and, therefore, does not place the teachings in the possession of the public since the reference does not demonstrate that the teachings were within the knowledge of one with ordinary skill in the art.

Merrill Teaches Away from the Claimed Subject Matter

Further, the failure of Merrill to provide an enabling description of the teachings for which it is cited can be seen in the fact that Merrill actually teaches away from the subject matter of claim 1. In particular, with respect to the EIP information management features the author believes should or will be developed, the authors at page 4, paragraph 4, note that the amount of information stored and available has dramatically increased and "yet cross enterprise access to this information has been difficult if not impossible to accomplish." Consequently, implementing the features that the authors believe will and should be developed, and which are cited in the Office Action at pages 4-5 for teachings of limitations found in claim 1, as discussed specifically above, is not believed by the authors to be a simple task for those with ordinary skill in the art. Consequently, the teachings of Merrill actually imply that the claimed subject matter

is not obvious, but rather difficult to achieve. Therefore, claim 1 is not obvious at least for this and the above cited reasons.

Cawse is not Analogous Art

Finally, Applicants respectfully submit that, contrary to the Office Action's assertion on page 7, that Cawse is not analogous art and, as such, should not be relied upon for its teachings. A reference is analogous "if it is one which, because of the matter with which it deals, logically would have commanded itself to an inventor's attention in considering his or her invention as a whole." M.P.E.P. § 2141.01(I). Applicants respectfully submit that Cawse would not have logically commanded itself to an inventor's attention in considering his or her invention as a whole.

As noted on page 3 of the specification, the present invention is directed to resolving issues involving analysis (such as six sigma analysis) of data distributed over a whole organization which may be stored in different databases and in different formats. Cawse, on the other hand, is not directed to issues associated with the analysis of data distributed over a whole organization, but to identifying chemicals that are suitable candidates for further research. (Cawse, column 2, line 60 through column 3, line 10). To Applicants' knowledge, the issues in Cawse are not related to the location of data sources, but to the labor-intensive process involved in identifying suitable chemicals. (Cawse, column 3, lines 2-5). More specifically, Cawse is directed to making a combinatorial system of lab experiments more efficient by reducing the variability in the leads it produces. (Cawse, column 3, lines 34-40). Therefore, an inventor with ordinary skill in the art of the present invention would not logically turn to Cawse to solve the problems involved in applying statistical analysis to enterprise wide business data. As a result, Cawse should not be considered in a Section 103 analysis and claim 1 is not obvious for at least this additional reason.

The Dependent Claims Define Patentable Subject Matter

Claims 2-10 are dependent on claim 1 and, therefore, are allowable at least for depending on an allowable independent claim. Applicants additionally submit that claims 2 through 10 further define patentable subject matter.

For example, amended claim 5 recites “in response to an electronic request from said user to said website, running a simulation to determine the effect varying a user specified statistical parameter of a plurality of statistical parameters has on another statistical parameter” and “electronically transferring the results of said simulation to said user over a communications network.” Applicants submit that neither Merrill nor Cawse teaches or suggests these limitations.

As another example, claim 7 recites “in response to a user request to said website, determining a trend of a statistical parameter over time.” Applicants respectfully submit that neither Merrill nor Cawse teaches or suggests this limitation.

II. Claims 11-14

Claim 11 recites:

11. An Internet-based system comprising:
a plurality of data repositories collectively comprising business data from across an enterprise;
a computer system operable to access said data repositories, to collect data from said data repositories into a data warehouse comprising warehouse data stored in a uniform format, to perform a statistical analysis, including six sigma analysis, of said warehouse data, to receive user-generated requests via the Internet for execution of a user-defined statistical analysis of a user-selected performance measure for said warehouse data, to deliver a Hyper-Text Markup Language document via the Internet to an Internet node in response to said user-generated analysis requests, wherein said Hyper-Text Markup Language document contains a graphical display of said statistical analysis such that the statistical variance of said performance measure is viewable as a web-page.

Applicants respectfully submit that claim 11 is not obvious over Merrill in view of Cawse for reasons similar to those discussed above in connection with claim 1. As discussed above, Merrill does not teach “a computer system operable to access said data repositories, to collect data from said data repositories into a data warehouse comprising warehouse data, to perform a statistical analysis, including six sigma analysis, of said warehouse data, to receive user-generated requests via the Internet for execution of a user-defined statistical analysis of a user-selected performance measure for said warehouse data.” Further, as discussed above, Cawse fails to cure the deficiency of Merrill to teach statistical analysis, including six sigma analysis of business data from across an enterprise and stored in a plurality of data repositories. Consequently, Applicants respectfully submit that claim 11 is allowable at least for reasons similar to those discussed above in connection with claim 1.

Claims 12-14 depend from claim 11 and are allowable at least for being depending from an allowable independent claim. Applicants additionally submit that claims 12-14 further define patentable subject matter. For example, claim 13 recites “analyze said business data as new data is added to said business data to determine if a statistical parameter for a performance measure is outside a user specified target.” The Office Action at pages 24-25 states that this limitation is not taught by Merrill or Cawse and cites to U.S. Pat. No. 6,853,920 to Hsiung for this limitation. Hsiung, however, does not teach analysis of business data as new data is added to said business data when the business data is across an enterprise and stored in a plurality of data repositories. Indeed, looking to FIG. 1, Hsiung shows only a single database 106. *See also Hsiung*, column 6, lines 1-9 (describing properties of a single database). Therefore, Hsiung does not cure the deficiencies of Merrill and Cawse described and Claim 13 should not be considered obvious over the references.

III. Claims 15 and 17-20

As amended, claim 15 recites:

15. A method of implementing a business intelligence system in a distributed computing environment, said method comprising the steps of:
 - a) in response to a user-generated request received from a peripheral computer system, a host computer system transferring an electronic document to said

peripheral computer system, wherein said electronic document has selectable fields for a plurality of dimensions to select a data set accessible by said host computer system, said data set from a plurality of data repositories;

- b) in response to a user-generated request received from said peripheral computer for a *statistical analysis, including six sigma analysis, of a user-selected performance measure for said data set, said host computer system performing said statistical analysis;*
- c) said host computer system electronically transferring an electronically viewable version of said statistical analysis to said peripheral computer system; and
- d) collecting said data from a plurality of databases; and
- e) *formatting said data in a single format, wherein data from multiple databases in multiple formats is converted to a single format and stored on a single database,* and wherein said peripheral computer system does not have direct access to said databases.

Applicants respectfully submit that claim 15 is allowable at least for reasons similar to those reasons discussed above in connection with claim 1. For example, as discussed above, Merrill does not teach performing statistical analysis, including six sigma analysis of a user-selected performance measure for a data set where the data set is from a plurality of data repositories. Also as discussed above, Cawse does not cure the deficiency to teach this limitation. As a result, Applicant respectfully submits that claim 15 is allowable for at least this reason.

Claims 17-20 depend from claim 15 and, therefore, are allowable at least for being dependent on an allowable independent claim. Applicants respectfully submit that claims 16-20 further define patentable subject matter. For example, claim 17 recites “wherein a standardized presentation of said statistical analysis is available to multiple distributed peripheral computer systems.” The Office Action points to Merrill page 10, paragraph 5 for this limitation. As discussed above, this paragraph the authors’ opinion of how EIPs should develop, and not to what was known by those with ordinary skill in the art. For example, this paragraph generally

describes web surfing and then states that "we believe that users are going to demand similar capabilities." Further, this paragraph does not teach anything concerning standardized presentations of statistical analysis that is available to distributed peripheral computer systems. Consequently, claim 16 is allowable for at least this additional reason.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 206-467-9600.

Respectfully submitted,

/Scott S. Adams/

Scott S. Adams
Reg. No. 63,302

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 206-467-9600
Fax: 415-576-0300
SSA:slr:kbh
61661119 v1